

# ***SBAExpress*** **Loan Program**

# Authority

- SBA Express Program Guide
  - Page 8 # , Processing Requirements
- Notice 5000-850
- Notice 5000-915
- Notice 0000-1727
- SOP 50-10, 50-50, and 50-51
- CFR



# SBAExpress Program Guide

- Lender must apply all SBA business loan requirements, including those in the Small Business Act, 13 CFR Parts 120 and 121, and SBA SOPs 50-10, 50-50, and 50-51 unless specifically identified as inapplicable by the **Program Guide (page 8)**

# Lender Authority and Responsibility

- Lender to assume greater responsibility
  - Screening application
  - Completing credit analysis
  - Reviewing eligibility
- Lender assume to be familiar with SBA status, regulations, SOPs, and SBAExpress Program Guide
- Complex or ambiguous eligibility issues should be processed regular 7(a)

## Lender May Rely on

- Applicant's certification provided in Form 1919 Borrower Information Form
  - Character
  - Citizenship
    - INS Form G-845, Not required for SBAExpress
  - Eligibility Factors
  - Business size
  - Unless Lender has Contrary Creditable Evidence

# Borrower Ethical Requirements

- Question 1, 2, and 3 of Form 1919, Borrower Information Form
  - Parole, Probation, or Incarcerated
- If:
  - One misdemeanor in prior 10 Years
  - Up to 3 misdemeanors all over 10 years
- Provide complete Form 912
- SBA will process and issue Gty #
  - SBA will notify lender if it clears/consistent
    - Consistent with FBI Files
  - SBA will cancel guaranty if not

# Conflict of Interest

- Real or appearance of a conflict
- Lender, its associate(s), employees, or SBA employees has a direct or indirect financial interest in the applicant
  - Within prior 6 Months
  - Anytime while the loan is outstanding
- Best sent Regular 7(a)

# Associates

- Of the Lender
  - Officer, Director, Key Employee, 20% or more owner, Controls
- Of the Small Business
  - Officer, Director, Key Employee, 20% or more owner, Controls



# Lender's Credit Decision

- Appropriate and Generally Accepted Credit Analysis and Procedures
- Consistent with Lenders Non-SBA Commercial loans
- Credit Scoring if acceptable if used on non-SBA Commercial loans
- Must be documented and maintained for SBA Review
- Equity injection and Documentation
  - Same as for non-SBA Commercial loans
  - If Required for non-SBA Commercial loans Required for SBAExpress
- Prior Bankruptcy
  - Same as for non-SBA Commercial loans

# Loan and Guarantee Limits

- \$2,000,000 maximum Individual loan
- 50% Maximum Guaranty Percent
- \$1,000,000 Maximum SBA Guarantee on any one loan
- Multiple Loans are allowed
  - Must Not Circumvent SBA Fees 90 day rule
  - \$1,500,000 Combined Maximum Guaranty

# Interest Rate .

- **Maximum Interest Rate:**
  - 6.5% over Prime for Loans of \$50,000 or less
  - 4.5% over Prime for Loans above \$50,000
- Variable or Fixed Rate Loans allowed
- Change no more than Monthly
- Not required to use New York Prime
- Can use the same base/Prime as for your non-SBA Loans
- Can't Sell on the Secondary Market unless based on New York Prime
- SBA will pay based on New York Prime plus  $2 \frac{1}{4} - 2 \frac{3}{4}$

# Guarantee Fees

- Same as Regular 7(a)
  - Up Front
    - Loan Amount
      - 0 – \$150,000 1%
      - \$150,000+ - \$700,000 2.5%
      - \$ 700,000+ 3.5%
      - \$1,000,000+ .25%
  - Ongoing
    - .36% annual .03 per Month
    - Paid Monthly with SBA Form 1502
- 12 Month or less term .025% up-front and -0-ongoing fee
  - If term is extended to over 12 months fee will increase (except in a workout)

# Size Standards

- Same as regular 7(a)
  - Manufactures 500 Employees
  - Wholesalers 100 Employees
  - Retailers \$6,000,000
  - Services \$6–\$28,5 Million
  - Agriculture \$750,000
- Including all affiliates

## Term / Maturity

- Same as Regular 7(a)
  - Fully Amortizing (Except LOCs)
    - Except if bank uses demand notes in its non-SBA commercial loans
  - No Balloons allowed
  - W/ C                      7 – 10
    - 7 year max on LOCs
  - M & E                      IRS life of the Asset
  - R/E                      25 years

# Use of Proceeds

- Same as regular 7(a)
- Lenders to insure proceeds are used for business purposes
- Conform with Lenders normal Verification on use of proceeds
- Communicate to borrowers that proceeds to be used for business purposes only

## Eligible use of Proceeds

- Normal business purposes, except:
- Payoff creditors who are in a position to sustain a loss
- Repay or refinance debt to an officer or director of the lender or its affiliates or close relative of an officer or director except for change of ownership
- Refund debt owed to Small Business Investment Company (SBIC)
- Replenish working capital which has been used for any of above



# Eligible use of Proceeds

## Examples

- Real estate purchase, refinance, remodeling
- Machinery
- Inventory
- Working capital
- Purchase of a business
- Start up costs
- Debt refinance

# Ineligible use of Proceeds

- Speculative ventures - oil drilling, futures, etc.
- Gambling
- Lending or investment
- Real estate held for sale or investment
- Illegal activities, monopolies, pyramid sales
- Floor plan financing
- Foreign controlled or located businesses
- Individuals with pending criminal charges, or who are incarcerated, on probation or parole

# Collateral

- SBAExpress Program Guide Page 18 (Oct 02)
  - No collateral required for loan of \$25,000 or less
  - Lenders collateral policy for loans
  - \$25,000+ to \$150,000
- Policy Notice 5000-850 (Feb 03)
  - Lenders policy for loans over \$150,000
- Policy Notice 5000-915 (April 04)
  - Increased SBAExpress authority to \$2,000,000
- Must be Commercially Reasonable and Prudent

# Debt Refinancing

- Same as Regular 7(a)
  - Existing Debt must not be meeting the needs of the business
  - 20%+ cash flow savings
  - Can't refinance your own debt if 29+ days past due
  - Prior 36 months
  - Can't refinance existing SBA debt
  - No 25% restriction of refinancing your own debt like Low Doc

# Environmental

- Lender is delegated authority to make prudent decision regarding Environmental. Risk
- Lender must follow Environmental. Requirements of SOP 50-10
- On Commercial Real Estate taken as collateral only
- Reasonable and Prudent Belief that there is no Risk of Contamination
  - Have Obtained Sufficient Knowledge of Past and Current Operations
  - Current, Prior, or Adjacent Businesses are not Frequent or Likely Polluters

# Appraisal Requirement

- Requirement for loans over \$250,000
- Same as 7(a) for \$250,000+ loans
  - Required when loan proceeds for R/E transactions are \$100,000+ or when R/E is primary collateral
  - When required to determine creditworthiness
  - Consistent with USPAP Per Appraisal Standards Board of Appraisal Foundation
  - Self Contained or Summary Appraisal acceptable
    - 3 methods of valuation
  - Complete Appraisal for \$1,000,000+ loans
  - Appraiser
    - State Licensed
    - State Certified for R E transactions \$1,000,000+
  - 10% variance allow, Document

# Personal Guarantees

- Same as 7(a)
- Required for all
  - Sole Proprietors
  - Partners
  - Owners of 20% or more
- Limited Guarantee for 5-19% owners
  - Lender's discretion
  - At least one guarantor (CEO ?)

# Sale of Business #1

- Same as Regular 7(a)
- Arms Length:
  - Willing and Knowledge Buyer and Seller
- Reasonable Need to Sell the Business
  - Health of Seller
  - Retirement
  - Etc.



## Sale of Business #2

- Methods
  - Gross Revenue Multiplier
  - Adjusted Book Value
  - Discounted Future Earnings
  - Capitalized Adjusted Earnings
  - Cash Flow
  - Other Generally Acceptable Methods

## Sale of Business #3

- Documentation
  - Prior 3 years F/S (signed by Seller)
  - Current F/S (signed by Seller)
  - Copy of Buy-Sell Agreement
  - Valuation

## Sale of Business #4

- Partial Sale of a Business
  - Non-owners can not Purchase Part of a Business
  - Existing Owners Must Retain Proportional Ownership
    - $\frac{1}{3}$ ,  $\frac{1}{3}$ ,  $\frac{1}{3}$ , to  $\frac{1}{2}$ ,  $\frac{1}{2}$
  - Can not Purchase part of the Seller's Interest Must Purchase all
  - All 20% Owners must Guarantee

# IRS Verification

- Same as Regular 7(a)
  - IRS Transcript
    - Income Statement
    - Balance sheet
      - If Provided to IRS
  - Existing Business and Sale of Business
  - Signed by Borrower of Seller
    - Reconcile to financial statements
    - In lenders file
  - Complete prior to Disbursement
    - 10 Business Days for IRS to Respond
  - Not required if credit scoring
    - Sales, N/P, etc not in credit scoring

# Franchises

- [www.franchiseregistry.com](http://www.franchiseregistry.com)
- If not on the franchise registry site
  - Franchise Agreement, FTC Disclosure Statement and F/S
  - Lender to review the Franchise Agreement and determine if it meets the requirements of SOP 50-10

## Operating Company / Eligible Passive Concern

- Same as 7(a)
- 51% business occupancy (Existing)
  - 49% rental
- 80% business occupancy (New)
  - 20% long term rental
- 20% short term rental
- Co-borrowers or maker and guarantor

# Lines of Credit

- Revolving Lines of Credit are allowed
  - May **Not** Be Sold on Secondary Market
  - May Be Accessed by Credit Card
  - Applicant Commits to Business Purposes - Lender Not Required to Monitor Each Disbursement
  - 33+% increase to have appropriate analysis
  - Maximum - Seven Years
    - Combination of revolving and term
  - Term outs - Available at Outset
    - 3 Year max term on work-outs

# Combination / Piggyback Financing

- Not allowed under SBAExpress
- When a lender provides more than one loan(s) to a single borrower (OC / EPC) at about the same time for the same or similar purposes
  - Two working capital loans are not Companion/ Piggyback



# Lenders Documentation/Forms

- Lender to Borrower Forms
  - Generally Bank Forms
    - Application
    - Personal Financial Statement
    - Internal Credit Memoranda
    - Loan Notes (Legally Enforceable)
    - Collateral Documents
    - Liquidation Documents
    - Except SBA Form 1919, Borrower Info.
  - Forms sent to SBA are SBA Forms

# Forms/Procedures

## Eligibility Authorized Lenders

- SBA Form 2238: SBAExpress Guarantee Request (Eligibility Authorized)
  - To Sacramento
  - Loan # Issued in one Business day
- Authorization
  - To Fresno
  - Completed and signed by lender
- SBA FORM 1919 to Lender File
- Changes
  - To Sacramento within 7 days
  - To Fresno thereafter

# Forms and Procedures

## Other Lenders

- SBA Form 1920SX (Parts A, B, & C)
  - To Sacramento
  - Loan # Issued in one Business day
- Authorization
  - To Fresno
  - Completed and signed by lender
- SBA Form 1919 to Lenders File
  - One for each owner of 20% or more
- Changes
  - To Sacramento within 7 days
  - To Fresno thereafter

## Other Required SBA Forms

- In Lenders loan file:
- To SBA:
  - SBA Form 912: If Adverse Character
    - If yes to Questions 1, 2, or 3 Form 1919 Borrower Information
    - 2 Copies to SBA
    - SBA will issue Loan #
    - SBA will notify if FBI information is consistent with the Form 912
    - SBA will cancel the loan is not

## SBA Forms in the Lender's File

- SBA Form 159: If Packagers
- SBA Form 601: If Construction over \$10,000
- IRS Form 4506-T
- The lender's loan file should contain most of the information currently required except any exceptions listed in the SBAExpress program guide
- The form may have changed from the SBA format to the lender's format



# Programs not Allowed under SBAExpress

- Disabled Assistance Loans
- Energy Conservation Loans
- International Trade Loans Except Export Express
- ESOP Loans
- Pollution Control Loans
- Delta Loans
- CAP Line Loans
- CAIP Community Investment Adjustment Loans

# Businesses not Eligible under SBAExpress

- Agricultural and Farms
- Commercial Fishing and Construction of new Vessels
- Extended Care Facilities/CBRFs
- Mines
- Applicant with Overseas Facilities
- Religion
- Sexual Nature

# Other Restrictions

- Piggyback/Combination loans
- 90% maximum financing of RE Acquisition or Refinance
- Previous Submissions
- Ethical Requirements
- Contaminated Collateral
- Prior Losses to the Government
- Conflict of Interest
- Letter of Credit
- Applicant must be current on existing SBA loans



# Closing

- Lender to use the same closing and disbursement procedures as for non-SBA commercial loans
- Lender to Close on Lenders Forms (mostly)
- Legally enforceable & assignable note
- Obtain all collateral and conditions prior to disbursement
- Report of SBA Form 1502 when Approved

## Closing #2

- Prior to Disbursement
  - IRS Transcripts obtained and reconciled
  - Un-remedied Adverse change evidence
  - Hazard Insurance in place
  - Flood Insurance (FEMA Form 81-93)
  - Nat'l Earthquake Requirements
  - American Made Goods Agreement
  - SBA Form 601 (construction of \$10,000+)
  - SBA Form 159 (Packagers)
  - Child Support Payment
  - Environmental Review

# Servicing and Liquidation:

- Servicing
  - Notice 0000-1727
  - 14 actions requiring SBA Approval
- Liquidation
  - Lender Required to Liquidate
  - SBA will Immediately Purchase Defaults on Loans When:
    - Remaining Balance is \$50,000 Less
    - Liquidation will be Delayed

# 14 Servicing Rules Slide #1

- **SBAExpress Lenders**
- The following actions are not delegated to SBAExpress lenders, pursuant to the SBAExpress Program Guide (10/1/02), ¶7.C (1), p. 29: and Notice 5000-917
  - 1. Action that would confer a preference on the lender.
  - 2. Compromise with any obligor for less than the full outstanding principal loan balance.

## 14 Servicing Rules Slide # 2

- 3. Release a guarantor, even if actual demand has not yet been made.
- 4. Title property in the name of SBA
- 5. Take title to environmentally impaired property.
- 6. Transfer a loan to another lender.
- 7. Sell or pledge more than 90% of a loan.
- 8. Change guaranty percentage.
- 9. Repurchase from secondary market.

## 14 Servicing Rules Slide # 3

- 10. Handle non-routine (contested) litigation or litigation with legal costs over \$5,000.
- 11. Increase the principal amount of the loan.
- 12. Disburse a loan with primary collateral having significant potential environmental risks that are proposed to be minimized by a non-standard indemnification agreement.

## 14 Servicing Rules Slide #4

- 13. Select firms owned by officers, directors, employees or 10% or more stockholders of the lender to provide care and preservation services, legal assistance, or other liquidation services.

## 14 Servicing Rules Slide # 5

- 14. Release collateral that will be subsequently pledged for a conventional loan from the lender or any entity owned in whole or in part by the lender's officers, directors, employees, or 10% or more shareholders.



# Servicing Actions Requiring Notice to SBA

- Loan Cancellations
- Decreases in Loan Amount
- Changes of Maturity
- Changes of Business Name & Address
- Extensions of Disbursement Periods
- Notice of Prepayment

## Fees

- Lender may charge the same fees as it charges for its non-SBA commercial loans
- SBA will not purchase any portion of the loan balance that contains these fees
- Dollars vs. Prorated?



# **Additional Information-**

## **District Contacts**

### **Milwaukee:**

**Phone: 414-297-3941**

**Fax: 414-297-1377**

**310 W. Wisconsin Ave. 53203**

### **Madison:**

**Phone; 608-441-5263**

**Fax: 608-441-5541**

**740 Regent St. 53715**

# SBA Contacts

- Loans Processed in Sacramento
  - May Be Faxed - Soon Via Internet
  - 24 Hour SBA Response
- Serviced – Fresno Commercial Loan CTR.
- Purchases -Little Rock & Fresno LCS
- District Office has marketing responsibility